

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

GREGORY L. BROWN,

Plaintiff,

No. CIV S-02-2645 GEB KJM P

vs.

D.L. RUNNELS, et al.,

Defendants.

ORDER

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Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action filed under 42 U.S.C. § 1983. By order filed September 30, 2004 plaintiff's amended complaint was dismissed with leave to file a second amended complaint. On December 20, 2004 plaintiff filed a third request for an extension of time to file his second amended complaint. Good cause appearing, plaintiff's request for an extension of time will be granted and plaintiff's December 20, 2004 second amended complaint will be deemed timely.

Plaintiff's second amended complaint states a cognizable claim for relief under 42 U.S.C. § 1983 and 28 U.S.C. § 1915A(b). If the allegations of the amended complaint are proven, plaintiff has a reasonable opportunity to prevail on the merits of the following claims against the following defendants:

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1 1) Eighth Amendment: Harrison, Lucas, Davey, Quiggle, Rohlfing, Runnels,  
2 Martin, Johnson, Felker, Malfi, Surges, Alameida, Rianda, Kopec, Fleischman, Fiegner, Cole,  
3 Leighton, Brewer, Lynn, Wright, Braida, Jackson, Bainbridge, Halsath, Weeks, and Alexander;

4 2) ADA: Martin, Johnson, Felker, Malfi, Surges, Alameida, Rianda, Runnels,  
5 Kopec, Fleischman, Fiegner and Cole; and

6 3) First Amendment Retaliation: Leighton, Brewer, Lynn, Wright, Felker,  
7 Blankenship, Norlin, Fleischman, Kopec, Jackson, Hibbits, Weeks, Alexander, Cole, and  
8 Feliciano.

9 The court will order service of process upon these defendants. With respect to the remainder of  
10 the defendants and claims identified in plaintiff's second amended complaint, plaintiff's second  
11 amended complaint fails to state a claim upon which relief can be granted.

12 In accordance with the above, IT IS HEREBY ORDERED that:

13 1. Plaintiff's December 20, 2004 request for an extension of time is granted.

14 2. Plaintiff's December 20, 2004 second amended complaint is deemed timely.

15 3. Service is appropriate for the following defendants: Harrison, Lucas, Davey,  
16 Quiggle, Rohlfing, Runnels, Martin, Johnson, Felker, Malfi, Surges, Alameida, Rianda, Kopec,  
17 Fleischman, Fiegner, Cole, Leighton, Brewer, Lynn, Wright, Braida, Jackson, Bainbridge,  
18 Halsath, Weeks, Alexander, Hibbits, Blankenship, Norlin, and Feliciano.

19 4. The Clerk of the Court shall send plaintiff 31 USM-285 forms, one summons,  
20 an instruction sheet and a copy of the second amended complaint filed December 20, 2004.

21 5. Within thirty days from the date of this order, plaintiff shall complete the  
22 attached Notice of Submission of Documents and submit the following documents to the court:

23 a. The completed Notice of Submission of Documents;

24 b. One completed summons;

25 c. One completed USM-285 form for each defendant listed in number 3  
26 above; and

1 d. Thirty-two copies of the endorsed second amended complaint filed  
2 December 20, 2004.

3 6. Plaintiff need not attempt service on defendants and need not request waiver of  
4 service. Upon receipt of the above-described documents, the court will direct the United States  
5 Marshal to serve the above-named defendants under Federal Rule of Civil Procedure 4 without  
6 payment of costs.

7 DATED: May 18, 2005.

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10 UNITED STATES MAGISTRATE JUDGE  
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NOTICE OF SUBMISSION  
OF DOCUMENTS

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Plaintiff hereby submits the following documents in compliance with the court's  
order filed \_\_\_\_\_:

\_\_\_\_\_ completed summons form

\_\_\_\_\_ completed USM-285 forms

\_\_\_\_\_ copies of the \_\_\_\_\_  
Second Amended Complaint

DATED:

\_\_\_\_\_  
Plaintiff